

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

RICHARD A. BOWER,)
EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION, and JOHN OSWALD,)

Plaintiffs,)

RICHARD A. BOWER,)

Plaintiff-Intervenor,)

SHARON HERDRICH, LUIS MORALES,)
and TIM WIESE,)

Plaintiffs-Intervenors,)

v.)

Case No. 94-2862

FEDERAL EXPRESS CORPORATION,)

Defendant.)

**ORDER OVERRULING PLAINTIFF-INTERVENORS' OBJECTIONS, ADOPTING
MAGISTRATE JUDGE'S REPORT & RECOMMENDATION, AND DENYING
PLAINTIFF-INTERVENORS' APPLICATION FOR ATTORNEY FEES AND COSTS**

Before the Court is Plaintiff-Intervenors Sharon Herdrich, Luis Morales, and Tim Wiese's ("Intervenors") Application for Attorney Fees and Costs pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12205 ("ADA"), filed January 30, 2009. (D.E. #571.) The Court referred Intervenors' motion to the United States Magistrate Judge for a report and recommendation. On January 14, 2011, the Magistrate Judge issued her Report and Recommendation recommending denial of Intervenors' application for attorney fees and

expenses. (D.E. #588.) On January 28, 2011, Intervenor filed objections to the Report and Recommendation. Defendant Federal Express Corporation filed a response to Intervenor's objections on February 11, 2011.

The district court that refers a matter to a magistrate judge possesses appellate jurisdiction over any decision the magistrate judge issues pursuant to such referral. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72; Callier v. Gray, 167 F.3d 977, 980 (6th Cir. 1999). When the magistrate judge issues a report and recommendation on a matter referred by the district court, the district court must "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b); see Fed. R. Civ. P. 72(b)(3).

The Court has reviewed Intervenor's objections to the Report and Recommendation and finds them to be without merit. Considering the applicable statute, case law, and rules, as well as the entire record in this case, the Court finds that Intervenor's application for attorney fees and costs is not well-taken. Accordingly, the Court **OVERRULES** Intervenor's objections, **ADOPTS** the Report and Recommendation of the United States Magistrate Judge, and **DENIES** Intervenor's application for attorney fees and expenses.

IT IS SO ORDERED, this 16th day of February, 2011.

s/Bernice Bouie Donald

BERNICE BOUIE DONALD
UNITED STATES DISTRICT JUDGE